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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

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| Proceeding | 91185256 |
| Party | Defendant Room Service Interiors Ltd. |
| Correspondence Address | Paul G. Juettner Greer, Burns & Crain, Ltd. 300 South Wacker Drive Chicago, IL 60606 UNITED STATES pjuettner@gbclaw.net |
| Submission | Answer |
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| Date | 01/09/2009 |
| Attachments | Answer & Defenses.pdf (7 pages)(20260 bytes) |

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

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| In the Matter of Application No.: |) | |
| 76/071,006 – Published September 25, 2007 |) | |
| For the mark –ROOMSERVICE |) | |
| |) | |
| Room Service Home, LP and R S Design, Inc. |) | Opposition No. 91185256 |
| d/b/a Room Service by Ann Fox, |) | |
| |) | |
| Opposers, |) | |
| |) | |
| v. |) | |
| |) | |
| Room Service Interiors Ltd., |) | |
| |) | |
| Applicant. |) | |

APPLICANT’S ANSWER AND AFFIRMATIVE DEFENSES

Box TTAB
Assistant Commissioner for Trademarks
2900 Crystal Drive
Arlington, Virginia 22202-3513

Sir:

Applicant, Room Service Interiors Ltd., by and through its attorneys,
hereby answers Opposers, Room Service Home LP and R S Design, Inc.’s Amended
Notice of Opposition.

ANSWER

1. Applicant lacks sufficient information to form a belief as to the truth
of the allegations of paragraph 1 of the Amended Notice of Opposition and therefore
denies the same.

2. Applicant lacks sufficient information to form a belief as to the truth of the allegations of paragraph 2 of the Amended Notice of Opposition and therefore denies the same.

3. Applicant lacks sufficient information to form a belief as to the truth of the allegations of paragraph 3 of the Amended Notice of Opposition and therefore denies the same.

4. Applicant lacks sufficient information to form a belief as to the truth of the allegations of paragraph 4 of the Amended Notice of Opposition and therefore denies the same.

5. Applicant lacks sufficient information to form a belief as to the truth of the allegations of paragraph 5 of the Amended Notice of Opposition and therefore denies the same.

6. Applicant lacks sufficient information to form a belief as to the truth of the allegations of paragraph 6 of the Amended Notice of Opposition and therefore denies the same.

7. Applicant lacks sufficient information to form a belief as to the truth of the allegations of paragraph 7 of the Amended Notice of Opposition and therefore denies the same.

8. Applicant denies the allegations of paragraph 8 of the Amended Notice of Opposition.

9. Applicant lacks sufficient information to form a belief as to the truth of the allegations of paragraph 9 of the Amended Notice of Opposition and therefore denies the same.

10. Applicant admits that the website <http://roomservicebyannfox.com> uses the mark ROOM SERVICE BY ANN FOX, but otherwise lacks sufficient information to form a belief as to the truth of the remaining allegations in paragraph 10 of the Amended Notice of Opposition and therefore denies the same.

11. Applicant admits that the website <http://roomservicehome.com> uses the mark ROOM SERVICE HOME, but otherwise lacks sufficient information to form a belief as to the truth of the remaining allegations in paragraph 11 of the Amended Notice of Opposition and therefore denies the same.

12. Applicant lacks sufficient information to form a belief as to the truth of the allegations of paragraph 12 of the Amended Notice of Opposition and therefore denies the same.

13. Applicant lacks sufficient information to form a belief as to the truth of the allegations of paragraph 13 of the Amended Notice of Opposition and therefore denies the same.

14. Applicant admits to claiming a priority date of December 17, 1999 under Section 44(d). However, Applicant lacks sufficient information to form a belief as to the truth of the remaining allegations contained in paragraph 14 of the Amended Notice of Opposition and therefore denies the same.

15. Applicant admits that Opposers' use of ROOM SERVICE, ROOM SERVICE BY ANN FOX, and ROOM SERVICE HOME on the internet is causing actual confusion, mistake, and deception and that other uses of ROOM SERVICE by Opposers is likely to cause confusion, mistake or deception. Applicant denies that it is causing such confusion. Further, Applicant lacks sufficient information to form a belief as to whether its use or registration of ROOMSERVICE in connection with "on going television and radio programming in the field of architecture, antiques, furniture, interior design, and decorating" is likely to cause confusion with the Opposers common law trademark rights in the ROOM SERVICE marks, if any, and therefore denies all of the remaining allegations of paragraph 15 of the Amended Notice of Opposition.

16. Applicant denies the allegations of paragraph 16 of the Amended Notice of Opposition.

17. Applicant admits that Opposers' use of ROOM SERVICE, ROOM SERVICE BY ANN FOX, and ROOM SERVICE HOME on the internet is causing actual confusion, mistake, and deception and that other uses of ROOM SERVICE by Opposers are likely to cause confusion, mistake or deception. Applicant denies that it is causing such confusion. Further, Applicant lacks sufficient information to form a belief as to whether its use or registration of ROOMSERVICE in connection with "ongoing television and radio programs in the field of architecture, antiques, furniture, interior design, and decorating" is likely to cause confusion with the Opposers' common law

trademark rights in the ROOM SERVICE marks, if any, and therefore denies all of the remaining allegations of paragraph 17 of the Amended Notice of Opposition.

18. Applicant denies the allegations of paragraph 18 of the Amended Notice of Opposition.

AFFIRMATIVE DEFENSES

1. Opposer R S Design, Inc. lacks standing to oppose because its Notice of Opposition was not timely.

2. Opposer Room Service Home, LP's opposition fails to state a claim for relief because it lacks priority over Applicant.

3. Applicant has superior rights over Opposers to the ROOMSERVICE mark as it pertains to "ongoing television and radio programs in the field of architecture, antiques, furniture, interior design, and decorating."

4. Opposers' alleged rights to the ROOM SERVICE mark, if any, are limited to the geographic areas where they established actual use of the ROOM SERVICE mark prior to Applicant's priority date, and Applicant has superior rights in all other geographic areas of the United States and its territories.

5. Opposers' alleged ROOM SERVICE marks are invalid as a result of R S Design's grant of a perpetual right to use the name "Room Service Home, L.P." without the goodwill of the business.

6. Opposers' alleged ROOM SERVICE marks are invalid as a result of the R S Design's grant of a perpetual right to use the name "Room Service Home, L.P." without quality control.

7. Opposers' right to oppose Applicant's use and registration of its ROOMSERVICE mark for the services recited in the opposed application are barred by acquiescence, laches and/or estoppel.

8. Applicant is the owner of prior U.S. Trademark Reg. Nos. 2,873,054 and 3,459,916 for the same ROOMSERVICE mark for the same or similar services and goods such that registration of the subject application for ROOMSERVICE causes no added injury, if any injury, to Opposers.

WHEREFORE, Applicant denies that Plaintiff is entitled to the relief prayed for, and therefore prays that the subject opposition be dismissed and the Applicant's mark be registered.

Respectfully submitted,

By /s/ Paul G. Juettner
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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing **APPLICANT’S ANSWER AND AFFIRMATIVE DEFENSES** has been filed electronically through The Electronic System for Trademark Trials and Appeals (“ETTSA”) of the U.S. Patent and Trademark Office, and a true and correct copy has been served on Opposers by facsimile and first class mail to Opposers’ counsel on this 9th day of January 2009 at the following address:

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